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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/991,281	11/15/2001	Tomasz Janczak	42390P12526	3698
8791	7590	07/22/2005	EXAMINER	
BLAKELY SOKOLOFF TAYLOR & ZAFMAN 12400 WILSHIRE BOULEVARD SEVENTH FLOOR LOS ANGELES, CA 90025-1030			MEHRA, INDER P	
			ART UNIT	PAPER NUMBER
			2666	

DATE MAILED: 07/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/991,281

Applicant(s)

JANCZAK, TOMASZ

Examiner

Inder P. Mehra

Art Unit

2666

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 November 2001.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 17-20 is/are allowed.
- 6) ☒ Claim(s) 1-3, 5-11 and 13 is/are rejected.
- 7) ☒ Claim(s) 4, 12 and 14-16 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 November 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 1/28/02.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

1. This office action is in response to application dated: 11/15/2001. Claims 1-20 are pending.

Claim Objections

2. Claims 1-16 are objected to because of the following informalities:

Claim 1 recites "the priority" in line 3. It should be "a priority". Similar problem exist in claim 9 line 5

Claim 5 recites "selecting a packet". It should be prefixed by "the", because it is preceded by the same limitation in claim 1 in line 2.

Claim 6 recites "wherein determining the binary number". It should be prefixed by "the", because it is preceded by the same limitation in claim 1 in line 3. Same problem exists in claim 7.

Claim 9 recites " the period of contention" in line 7. "a" should be "the ", because it is recited first time in claim.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 2-3, 8, 10-12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

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Claim 2-3, 8, 10-12 recites the limitation "the communication medium" in lines 3-4.

There is no antecedent basis for this limitation in the claim. Similar limitation exists in claim 3 (twice in lines 3-4); claim 8 lines 6, 9 and 10; claim 10 line 5, claim 11 line 6;

Claim 8 recites following limitations, which either lack antecedent basis or have no antecedent basis:

- "the selected digit" in line 3. There is no antecedent basis. Similar problem exists in claim 6 lines 4, 6.
- "the binary number" in line 3. This lacks antecedent basis, because it is preceded by two limitations: "the two digit binary number" in line 1 and "a binary number" in claim 1 line 3. Similar limitation exists in claim 6.
- "the communication medium", in lines 8-9 and 11. There is no antecedent basis. Similar problem exists in claim 10 line 5. Similar problem exists in claim 10.

Claim 10 recites the limitation "the machine readable instructions" in lines 1 and 3.

There is no antecedent basis for this limitation in the claim. Similar limitation exists in claims 11-13.

Claim 12 recites the limitation "a machine" in line 2. There is insufficient antecedent basis for this limitation in the claim. This is preceded by the sale limitation in claim 9 line 2.

Note: There are similar problems of antecedent basis in the rest of the claims.

Appropriate action/clarification be made.

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5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Narayanna et al** (US Patent Application Publication No. 2002/0118683), hereinafter **Narayanna** in view of **Haartsen et al** (US Patent Application No. 2003/0035396), hereinafter, **Haartsen**.

For claims 1 and 9 **Narayanna** discloses “A method”, refer to paragraph 0003, comprising:

- selecting a packet; (Each scheduler 320A or 320B may prioritize packets by selecting the most eligible packet stored in its associated buffer 318, refer to paragraph 0053);
- determining a binary number corresponding to the priority of the selected packet, wherein the binary number comprises N digits, refer to paragraphs 75-79;

Narayana does not disclose expressly the following limitation, which is disclosed by **Haartsen**, as follows:

- contending for packet transmission, wherein the period of contention lasts N slot intervals, refer to paragraphs 0053 and 0056, and figs. 9-12.

It would have been obvious to the person of ordinary skill in the art at the time the invention to use the capability of “contending for packet transmission, wherein the period of contention lasts N slot intervals”, as taught by **Haartsen**. The capability can be implemented by

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the scheduler as taught by Narayana., and which can incorporate the capability of resolution of contention, as taught by Haartsen. . The motivation for doing so is to avoid contention through prioritization.

7. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over **Narayanna et al**, hereinafter Narayanna, in view of **Haartsen et al** , hereinafter, Haartsen, as above, further, in view of **Widjaja et al** (US Patent No. 5, 440, 553), hereinafter, Widjaja.

For claim 5, Narayanna and Haartsen both disclose all the limitations of subject matter, with the exception of the following limitation, which is disclosed by Widjaja, as follows:

- wherein selecting a packet comprises selecting a highest priority packet that is ready to be transmitted., (refer to “Among the packets destined for output port n, the trap network 70 selects the packet of highest priority, and if there is more than one such packet, it picks the packet having the lowest age value, refer to col. 6 lines 30-33);

It would have been obvious to the person of ordinary skill in the art at the time the invention to use the capability of “selecting a packet comprises selecting a highest priority packet that is ready to be transmitted”. The capability can be implemented by the scheduler as taught by Narayana., and which can incorporate the capability of resolution of contention, as taught by Widjaja . The motivation for doing so is to avoid contention through prioritization.

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8. Claims 6 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Narayanna et al**, hereinafter Narayanna, in view of **Haartsen et al**, hereinafter, Haartsen, as above, further, in view of **Collins et al** (US Patent No. 6,791,990), hereinafter, Collins.

For claims 6 and 13, Narayanna and Haartsen both disclose all the limitations of subject matter, with the exception of the following limitation, which is disclosed by Collins, as follows:

- wherein determining the binary number corresponding to the priority of the selected packet comprises determining a two digit binary number (refer to col. 6 lines 24-53).

It would have been obvious to the person of ordinary skill in the art at the time the invention to use the capability of “determining the binary number corresponding to the priority of the selected packet comprises determining a two digit binary number”. The capability can be implemented by the scheduler as taught by Collins. The motivation for doing so is to avoid contention through prioritization.

9. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over **Narayanna et al**, hereinafter Narayanna, in view of **Haartsen et al**, hereinafter, Haartsen, as above, further, in view of **Dimmick** (US Patent No. 4,470,112), hereinafter, Dimmick.

For claim 7, Narayanna and Haartsen both disclose all the limitations of subject matter, with the exception of the following limitation, which is disclosed by Dimmick, as follows:

- wherein determining the binary number corresponding to the priority of the selected packet comprises determining a three digit binary number, refer to abstract;

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It would have been obvious to the person of ordinary skill in the art at the time the invention to use the capability of “determining the binary number corresponding to the priority of the selected packet comprises determining a three digit binary number”. The capability can be implemented by the scheduler as taught by Dimmick. The motivation for doing so is to avoid contention through prioritization.

Allowable Subject Matter

10. Claims 17-20 are allowed.
11. Claims 4, 12, 14-16 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
12. Claims 2-3, 8, 10-11, would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Prior Art of Record

13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Haartsen et al (US Patent application No. 2002/0126692) discloses systems and methods for providing access to a time slotted communication channel.

Conclusion

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14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Inder P. Mehra whose telephone number is 571-272-3170. The examiner can normally be reached on Monday through Friday from 8AM to 5PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Seema Rao can be reached on 571-272-3174. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Inder Pal Mehra

Inder P Mehra

Examiner

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7/20/05



DANG TGN

TRIMONY EXAMINER